

REMARKS

In the office action, each of the original claims 1-27 stand rejected. In response, independent claims 1, 5, 16 and 27 and dependent claim 6 are hereby amended. In view of the amendments and the following comments, claims 1-27 should now be allowable.

Rejection of Claims 1, 3 and 4

Original claims 1, 3 and 4 stand rejected under 102(b) as being anticipated by Bassett et al (Bassett). In response, independent claim 1 has been amended. Claims 3 and 4 depend from claim 1. Because the claims as amended recite a **breathable protective pad**, this rejection should be overcome.

The amended claims continue to recite first and second layers of **breathable** foam, a **breathable** fabric layer and a hard layer having spaced apart openings. Now, as amended, the claims further emphasize the breathability of the pad as a whole. More specifically, claim 1 has been amended to explicitly recite a **breathable** protective pad that allows air or moisture to flow **throughout** the pad's area.

The object of the Bassett patent is to provide a pad that cushions not only the wearer but also another person/player coming into contact with the wearer. Col. 1, lines 3-51. Breathability and moisture transfer **across the pad** are not contemplated. In fact, the Bassett patent discloses the opposite: a **nonbreathable pad incapable** of air and moisture transfer across the pad's area.

Bassett discloses a **nonbreathable** pad having layers of **nonbreathable** materials. Padding layers 38 and 42 are disclosed as being closed cell type foam, such as VNS, which does not allow air and moisture transfer. The layer 34 is disclosed as being extremely durable and **water-resistant** and is applied across the exterior surfaces of the outer and inner layers. Col. 3, lines 49-52. As the detailed description goes on to state, "[b]y fully coating the pad, all surfaces would be **sealed and impervious** to external pentrants as water and sweat." Col. 3, lines 52-54 (emphasis added).

At col. 4, lines 11-15, the Bassett patent contemplates including "cutouts for ventilation or attachment of accessories." As this portion of the disclosure makes clear, such cutouts are not made to provide overall breathability and moisture transfer. In fact, modifying the Bassett pad to include a cutout that would allow air and moisture transfer across the pad's area would effectively eliminate the pad because the pad would become one big cutout. Instead, as the disclosure states, the cutouts allow for straps, hooks and attachment of other pad accessories through the cutout. Nothing suggests that the cutouts would make the **padding** breathable. Put another way, the **cutout** will allow ventilation through the cutout **only**, but the padding still would not provide any air or moisture transfer. As discussed above, the padding is explicitly disclosed as being **sealed and impervious** to water and sweat.

Accordingly, because Applicant's breathable pad that allows air and moisture transfer therethrough is not disclosed or suggested by the Bassett patent, the rejection should be overcome.

Rejection of Claim 2

Original claim 2 stands rejected under 103(a) as being unpatentable over Bassett in view of Bainbridge et al (Bainbridge). Claim 2 depends from amended claim 1. Given the amendments to claim 1 and for the reasons discussed above, Bassett does not disclose or suggest the invention. Furthermore, Bainbridge is only relied on for disclosing the use of closed cell beads. Accordingly, whether taken singularly or in combination, Bassett and Bainbridge do not disclose or suggest the invention as recited in claim 2, and the rejection should be withdrawn.

Rejection of Claims 5-11, 13-21 and 23-37

Claims 5-11, 13-21 and 23-27 stand rejected as being unpatentable over Beland in view of Bassett. Given the amendments to independent claims 5, 16 and 27 and dependent claim 6, this rejection should be withdrawn.

Independent claim 5 as amended now recites that **each cap pad** has:

- (1) a first means for releasably securing an upper end thereof to the corresponding shoulder portion; **and**
- (2) a second means for releasably securing each cap pad at a lower end to the wearer's arm;
- (3) the first means extending from an upper portion of the cap pad; and
- (4) the second means extending from a lower portion **of the cap pad**.

Beland does not disclose or suggest a cap pad having a second means for releasably securing each cap pad as recited in amended claim 5. Beland discloses shoulder caps 110, 110a, 710, 710a which are pivotally connected to the shoulder pads 102 via arch pads 124, 124a. The rigid caps 110, 110a, 710, 710a can include an inner padding. Col. 4, lines 33-49. However, these caps do not have any second attachment means for attaching the lower edge of the cap to the wearer's arm. See Fig. 2 which shows the pads pivoted to their highest position. Furthermore, given the **additional** arm protectors 104, 104a or elbow pads 704, 704a no reason exists to modify the caps 110, 110a, 710, 710a to include the second means as recited in amended claim 5. Next, Bassett does not disclose or suggest a football shoulder pad with any cap pads. Thus, Beland and Bassett, whether taken singularly or in combination, do not disclose or suggest applicant's invention as now claimed in claim 5.

Claims 6, 16 and 27 have been amended to recite a breathable pad as discussed in detail above with respect to amended claim 1. For the reasons discussed above with respect to Bassett as well as the reasons discussed here with respect to Beland, neither of these references, whether taken singularly or in combination, disclose or suggest applicant's invention as recited in amended claims 5, 6, 16 and 27. The rejection should be withdrawn. Similarly, because claims 7-11, 13-15, 17-21 and 23-26 depend from either claim 5 or 16, the rejection of these claims should also be withdrawn.

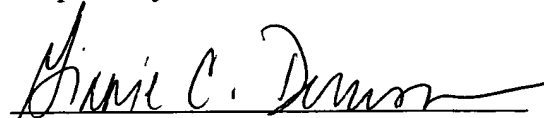
Rejection of Claims 12 and 22

Claims 12 and 22 stand rejected as being unpatentable over Beland in view of Bassett and Bainbridge. Claims 12 and 22 depend from amended independent claim 16. For the reasons discussed above with respect to claims 2 and 16, these patents, whether taken singularly or in combination, do not disclose or suggest Applicant's invention as now claimed. The rejection should be withdrawn.

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Prompt and favorable reexamination is respectfully requested. The one-month government extension fee is enclosed.

Respectfully submitted,



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